

By: Schaefer

H.B. No. 4749

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Rose City Municipal Utility District; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments and fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 7958 to read as follows:

CHAPTER 7958. ROSE CITY MUNICIPAL UTILITY DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7958.0101. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "City" means the City of Tyler.

(3) "Commission" means the Texas Commission on Environmental Quality.

(4) "Director" means a board member.

(5) "District" means the Rose City Municipal Utility District.

(6) "Utility commission" means the Public Utility Commission of Texas.

Sec. 7958.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7958.0103. CONFIRMATION AND DIRECTORS' ELECTION

1 REQUIRED. The temporary directors shall hold an election to
2 confirm the creation of the district and to elect five permanent
3 directors as provided by Section 49.102, Water Code.

4 Sec. 7958.0104. CONSENT OF MUNICIPALITY REQUIRED. The
5 temporary directors may not hold an election under Section
6 7958.0103 until each municipality in whose corporate limits or
7 extraterritorial jurisdiction the district is located has
8 consented by ordinance or resolution to the creation of the
9 district and to the inclusion of land in the district.

10 Sec. 7958.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.
11 (a) The district is created to serve a public purpose and benefit.

12 (b) The district is created to accomplish the purposes of a
13 municipal utility district as provided by general law and Section
14 59, Article XVI, Texas Constitution.

15 Sec. 7958.0106. INITIAL DISTRICT TERRITORY. (a) The
16 district is initially composed of the territory described by
17 Section 2 of the Act enacting this chapter.

18 (b) The boundaries and field notes contained in Section 2 of
19 the Act enacting this chapter form a closure. A mistake made in the
20 field notes or in copying the field notes in the legislative process
21 does not affect the district's:

22 (1) organization, existence, or validity;

23 (2) right to issue any type of bond for the purposes
24 for which the district is created or to pay the principal of and
25 interest on a bond; or

26 (3) legality or operation.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 7958.0201. GOVERNING BODY; TERMS. (a) The district is governed by a board of five directors appointed as follows:

(1) three directors appointed by the city;

(2) one director appointed by the Smith County Commissioners Court; and

(3) one director appointed by the state representative whose legislative district encompasses the largest portion of the district's territory.

(b) Directors serve staggered four-year terms.

(c) The appointing entities shall appoint the initial directors not later than September 1, 2020. The initial directors appointed under Subsection (a)(1) serve a four-year term, and the directors appointed under Subsections (a)(2) and (a)(3) serve a two-year term. This subsection expires September 1, 2023.

Sec. 7958.0202. QUALIFICATIONS OF DIRECTORS. (a) Notwithstanding any other law:

(1) an officer or employee of the city may serve as a director of the district; and

(2) a member of the governing body of the city may serve as a director of the district.

(b) A person who qualifies to serve as a director is qualified to participate in all votes pertaining to the business of the district, subject to Section 49.058, Water Code.

(c) Section 49.052, Water Code, does not apply to the district.

Sec. 7958.0203. COMPENSATION; REIMBURSEMENT. A director

1 serves without compensation but may receive reimbursement for
2 actual expenses reasonably and necessarily incurred while engaging
3 in activities on behalf of the district.

4 SUBCHAPTER C. POWERS AND DUTIES

5 Sec. 7958.0301. GENERAL POWERS AND DUTIES. The district
6 has the powers and duties necessary to accomplish the purposes for
7 which the district is created.

8 Sec. 7958.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
9 DUTIES. (a) Subject to Subsection (b), the district has the powers
10 and duties provided by the general law of this state, including
11 Chapters 49 and 54, Water Code, applicable to municipal utility
12 districts created under Section 59, Article XVI, Texas
13 Constitution.

14 (b) The district may provide only sewer and wastewater
15 services, including the acquisition, construction, contracting,
16 financing, maintenance, operation, and planning of sewer and
17 wastewater facilities or systems.

18 Sec. 7958.0303. COMPLIANCE WITH MUNICIPAL CONSENT
19 ORDINANCE OR RESOLUTION. The district shall comply with all
20 applicable requirements of any ordinance or resolution that is
21 adopted under Section 54.016 or 54.0165, Water Code, and that
22 consents to the creation of the district or to the inclusion of land
23 in the district.

24 Sec. 7958.0304. LIMITED POWER OF EMINENT DOMAIN. The
25 district may exercise the power of eminent domain only for the
26 limited purpose of acquiring or constructing sewer and wastewater
27 facilities.

1 Sec. 7958.0305. CONTRACTING. The district may contract
2 with the city for the city to operate and maintain the district's
3 sewer and wastewater facilities.

4 Sec. 7958.0306. CERTIFICATE OF PUBLIC CONVENIENCE AND
5 NECESSITY. (a) Notwithstanding Chapter 13, Water Code, the
6 district may provide sewer and wastewater service without a
7 certificate of convenience and necessity.

8 (b) Not later than the 30th day before the date the district
9 intends to provide sewer and wastewater service, the district must
10 notify the utility commission and each retail public utility that
11 provides sewer and wastewater services in the district.

12 (c) If the district does not acquire a retail public utility
13 that holds a certificate of public convenience and necessity for
14 providing sewer and wastewater service in the district territory,
15 the district shall:

16 (1) not later than the 30th day after the date the
17 district begins providing sewer and wastewater service, petition
18 the utility commission to decertify the territory inside the
19 district of the existing certificate holder; and

20 (2) compensate the existing certificate holder in an
21 amount determined by the utility commission.

22 Sec. 7958.0307. LEGAL SERVICES. The district may contract
23 with a political subdivision to provide legal services for the
24 district, including legal services related to the exercise of
25 eminent domain.

26 Sec. 7958.0308. SUPERMAJORITY VOTE REQUIRED FOR CERTAIN
27 ACTIONS. At least four board members must vote in favor of a

resolution before the board may:

(1) increase rates or assessments by more than five percent; and

(2) incur debt or increase the amount of debt that the district has outstanding.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 7958.0401. ELECTIONS REGARDING BONDS. The district may issue, without an election, bonds and other obligations secured by revenue other than ad valorem taxes.

Sec. 7958.0402. PROHIBITION ON IMPOSITION OF TAXES. (a) The district may not impose an ad valorem tax for any purpose.

(b) Section 49.107, Water Code, does not apply to the district.

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 7958.0501. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

SECTION 2. The Rose City Municipal Utility District initially includes all the territory contained in the following area:

BEING a 21,118 acre tract of land situated in Smith County, Texas, said 21,118 acre tract being more completely described by metes and bounds as follows:

BEGINNING at the intersection of the centerline of State Highway No. 155 with State Highway 57 (West Grande Boulevard);

1 THENCE Easterly with the centerline of West Grande Boulevard to its
2 intersection with F.M. 2493 (Old Jacksonville Highway);
3 THENCE Southwesterly with the centerline of F.M. 2493 (Old
4 Jacksonville Highway) to its intersection with Three Lakes Parkway;
5 THENCE Southeasterly with the centerline of Three Lakes Parkway to
6 its intersection with Dueling Oaks;
7 THENCE Easterly with the centerline of Dueling Oaks to its
8 intersection with Hollytree Drive;
9 THENCE Southwesterly with the centerline of Hollytree Drive to its
10 intersection with Maple Lane;
11 THENCE Southerly with the centerline of Maple Lane to its
12 intersection with West Cumberland Road;
13 THENCE Easterly with the centerline of West Cumberland Road to its
14 intersection with U.S. Highway 69 (South Broadway Ave.);
15 THENCE Southerly with the centerline of U.S. Highway 69 (South
16 Broadway Ave.) to its intersection with Loop 49;
17 THENCE Northeasterly with the centerline of Loop 49 to its
18 intersection with F.M. 756 (South Paluxy Drive);
19 THENCE Southeasterly with the centerline of F.M. 756 (South Paluxy
20 Drive) to its intersection with F.M. 346;
21 THENCE Southwesterly with the centerline of F.M. 346 to its
22 intersection with County Road 15;
23 THENCE Southerly with the centerline of County Road 15 to its
24 intersection with County Road 129;
25 THENCE Northeasterly with the centerline of County Road 129 to its
26 intersection with County Road 112;
27 THENCE with the centerline of County Road 112 to its intersection

1 with County Road 113;
2 THENCE with the centerline of County Road 113 to its intersection
3 with County Road 152;
4 THENCE Southwesterly with the centerline of County Road 152 to its
5 intersection with U.S. Highway No. 69;
6 THENCE Southeasterly with the centerline of U.S. Highway No. 69 to
7 its intersection with the South boundary line of Liberty Utilities
8 (Woodmark) CCN 20679 as shown by digital map on 3-08-2019 per the
9 Public Utility Commission of Texas website, same being on the East
10 boundary line of the City of Bullard, Texas, Sewer CCN 20903 as
11 shown by digital map on 3-08-2019 per the Public Utility Commission
12 of Texas website;
13 THENCE Southwesterly with said East boundary line of Bullard, Texas
14 CCN 20903 and South boundary line of Liberty Utilities (Woodmark)
15 CCN 20679 to its intersection with the centerline of F.M. 2493;
16 THENCE Northwesterly with the centerline of F.M. 2493 to an ell
17 corner in the West line of said CCN 20679;
18 THENCE West continuing with the West boundary line of said CCN 20679
19 to its intersection with the centerline of County Road 173 and being
20 the Westerly Southwest corner of said CCN 20679;
21 THENCE Northerly with the centerline of County Road 173 to its
22 intersection with the centerline of County Road 175;
23 THENCE Westerly with the centerline of County Road 175 to its
24 intersection with the centerline of F.M. 346;
25 THENCE Westerly with the centerline of F.M. 346 to its intersection
26 with the centerline of County Road 185 (Oak Hollow Road);
27 THENCE Westerly with the centerline of County Road 185 to its

1 intersection with the centerline of County Road 178 (Old Palestine
2 Highway);

3 THENCE Northeasterly with the centerline of County Road 178 (Old
4 Palestine Highway) to its intersection with the centerline of
5 County Road 168 (Saline Creek Road);

6 THENCE Northeasterly with the centerline of County Road 168 to its
7 intersection with the centerline of County Road 178 (Jonestown
8 Road);

9 THENCE North with the centerline of County Road 178 to its
10 intersection with the centerline of County Road 192 (Old Noonday
11 Road);

12 THENCE Northeasterly with the centerline of County Road 192 to its
13 intersection with the centerline of County Road 193 (Taylor Road);

14 THENCE Northwesterly with the centerline of County Road 193 to its
15 intersection with the centerline of State Highway No. 155;

16 THENCE Northeasterly with the centerline of State Highway No. 155
17 to the place of beginning containing 21,118 acres of land, plus or
18 minus.

19 SECTION 3. (a) The legal notice of the intention to
20 introduce this Act, setting forth the general substance of this
21 Act, has been published as provided by law, and the notice and a
22 copy of this Act have been furnished to all persons, agencies,
23 officials, or entities to which they are required to be furnished
24 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
25 Government Code.

26 (b) The governor, one of the required recipients, has
27 submitted the notice and Act to the Texas Commission on

1 Environmental Quality.

2 (c) The Texas Commission on Environmental Quality has filed
3 its recommendations relating to this Act with the governor, the
4 lieutenant governor, and the speaker of the house of
5 representatives within the required time.

6 (d) All requirements of the constitution and laws of this
7 state and the rules and procedures of the legislature with respect
8 to the notice, introduction, and passage of this Act are fulfilled
9 and accomplished.

10 SECTION 4. (a) Section 7958.0304, Special District Local
11 Laws Code, as added by Section 1 of this Act, takes effect only if
12 this Act receives a two-thirds vote of all the members elected to
13 each house.

14 (b) If this Act does not receive a two-thirds vote of all the
15 members elected to each house, Subchapter C, Chapter 7958, Special
16 District Local Laws Code, as added by Section 1 of this Act, is
17 amended by adding Section 7958.0304 to read as follows:

18 Sec. 7958.0304. NO EMINENT DOMAIN POWER. The district may
19 not exercise the power of eminent domain.

20 (c) This section is not intended to be an expression of a
21 legislative interpretation of the requirements of Section 17(c),
22 Article I, Texas Constitution.

23 SECTION 5. This Act takes effect September 1, 2019.